

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**LORIE DUFF**

*Plaintiff,*

v.

**FRONTIER AIRLINES, INC., AND  
ABM AVIATION, INC.  
*Defendants.***

§  
§  
§  
§  
§  
§  
§  
§  
§

**CASE NO. 4:20-cv-03430**

**JOINT MOTION FOR CONTINUANCE**

COMES NOW, Plaintiff Lorie Duff, Defendants Frontier Airlines, Inc., ABM Aviation, Inc., and DAL Global Services, LLC (collectively “Defendants”), and file this Joint Motion for Continuance and respectfully show unto this Honorable Court the following:

**BACKGROUND**

1. Plaintiff is Lorie Duff.
2. Defendants are Frontier Airlines, Inc., ABM Aviation, Inc., and DAL Global Services, LLC.
3. This case was originally filed on August 4, 2020, in the 125<sup>th</sup> Judicial District Court of Harris County, Texas. It was removed to this Court on October 5, 2020, without opposition.
4. This Court entered a Scheduling Order on January 8, 2021, setting a trial date for May 9, 2022. Discovery is scheduled to conclude on January 10, 2022.
5. On April 16, 2021, Plaintiff filed an Amended Complaint joining DAL Global Services LLP as a Defendant. DAL Global answered on May 20, 2021, and served its Rule 26(a)(1) Disclosures on June 1, 2021, which included newly disclosed potential fact witnesses.

6. Discovery has begun in earnest; however, depositions have not been scheduled but counsel for all Parties are working together to do so. It is anticipated that depositions of Plaintiff, fact witnesses, and experts will be taking place within the next four to five months.
7. Given the additional time necessary to take multiple depositions of fact witnesses that may have knowledge of the incident, and the need to set Plaintiff's deposition as well as obtain medical documentation about Plaintiff's pre-existing medical conditions, the Parties are requesting a Continuance of all remaining deadlines for at least 160 days from the current May 9, 2022, trial date.

#### **SUPPORTING MEMORANDUM OF LAW**

8. Federal Rule of Civil Procedure 16 permits the court to modify a scheduling order "only for good cause and with the judge's consent." Fed. R. Civ. P. 16(b)(4). "The good cause standard requires the 'party seeking relief to show that the deadlines cannot reasonably be met despite the diligence of the party needing the extension.' " *S&W Enterprises, L.L.C. v. SouthTrust Bank of Ala.*, NA, 315 F.3d 533, 535 (5th Cir. 2003) (quoting 6A Charles Alan Wright et al., Federal Practice and Procedure § 1522.1 (2d ed. 1990)). The trial court has "broad discretion to preserve the integrity and purpose of the pretrial order." *Hodges v. United States*, 597 F.2d 1014, 1018 (5th Cir. 1979).
9. The Parties are seeking relief because the deadlines currently established cannot reasonably be met despite the diligence exercised by the Plaintiff and Defendants. The continuance being sought is not solely for delay but so that justice may be done. Therefore, it is within the discretion of this Court upon a showing of good cause to afford the Parties an opportunity to modify the current scheduling order to avoid needlessly prejudicing either party and continue the trial date.

**PRAYER**

WHEREFORE, Plaintiff Lorie Duff, Defendants Frontier Airlines, Inc., ABM Aviation, Inc., and DAL Global Services, LLC, respectfully request the Court to extend the deadlines contained in its January 8, 2021, Scheduling Order (Doc. # 10) by one hundred-sixty (160) days, and that the Court make such Order as the Court deems fair and just.

Respectfully submitted,

ROSE LAW GROUP PLLC

/s/ Marc Michael Rose

Marc Michael Rose

Fed. Id.: 2943701

State Bar No. 24098350

777 Main Street, Suite 600

Ft. Worth, Texas 77024

Telephone: (817) 887-8118

Facsimile: (817) 887-8001

E-mail: marc@roselg.com

**COUNSEL FOR DEFENDANT  
ABM AVIATION, INC.**

**CERTIFICATE OF CONFERENCE**

I hereby certify that I have conferred with all counsel of record and that they are UNOPPOSED to the motion and relief sought herein.

/s/ Marc Michael Rose

Marc Michael Rose

**CERTIFICATE OF SERVICE**

This is to certify that on October 5, 2021, a true and correct copy of the foregoing document was served by e-mail on:

**Via E-mail: kevin@forsberglaw.com**

Kevin A. Forsberg  
THE FORSBERG LAW FIRM, P.C.  
15899 Hwy 105 West  
Montgomery, Texas 77356  
Telephone: (936) 588-6226  
Facsimile: (936) 588-6229  
E-mail: kevin@forsberglaw.net  
**COUNSEL FOR PLAINTIFF**

**Via E-mail: pcomerford@rigbyslck.com**

Patrick J. Comerford  
Rigby Slack Lawrence Berger Akinc Pepper & Comerford  
3500 Jefferson Street, Ste. 330  
Austin, Texas 78731  
Telephone: (512) 782-2054  
E-mail: pcomerford@rigbyslck.com  
**COUNSEL FOR DEFENDANT FRONTIER AIRLINES, INC.**

**Via E-mail: aschackel@brownsims.com**

Allison Z. Schackel  
Brown Sims  
1177 West Loop South, Tenth Floor  
Houston, Texas 77027  
Telephone: (713) 629-1580  
E-mail: aschackel@brownsims.com  
**COUNSEL FOR DEFENDANT DAL GLOBAL SERVICES LLC**

/s/ Marc Michael Rose

Marc Michael Rose